

GOLDSTEIN & RUSSELL, P.C.

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June 10, 2019

The Honorable Margo K. Brodie
U.S. District Court for the Eastern District of New York
225 Cadman Plaza East
Brooklyn, NY 11201

Re: *In re Payment Card Interchange Fee & Merchant Discount Antitrust Litigation*,
1:05-md-01720-MKB-JO (E.D.N.Y.).

Dear Judge Brodie:

Counsel for the merchant objectors hereby give notice that they presently intend to file—by the July 23, 2019 deadline for objector filings set forth in your Rule 23(b)(3) Class Settlement Preliminary Approval Order (Doc. 7361)—an objection to class counsel’s Motion for Attorneys’ Fees only to the limited extent that class counsel’s motion fails to allocate a portion of class counsel’s fees to counsel for the successful merchant objectors. Counsel for the merchant objectors believe that such fees are appropriate because they coordinated and led the effort to successfully object to the previous iteration of the class settlement agreement in this case—including the successful appeal to the Second Circuit and opposition to certiorari in the Supreme Court. Class counsel have themselves acknowledged that these efforts ultimately led to materially and substantially better terms for the class in the Superseding Settlement Agreement, the final approval of which is currently pending before this Court. *In re Payment Card Interchange Fee & Merch. Disc. Antitrust Litig.*, 827 F.3d 223 (2d Cir. 2016); *see also* Doc. 6676 (describing efforts of Goldstein & Russell, P.C. attorneys in assisting with objections to initial settlement agreement and obtaining material relief for the class before the Second Circuit); Doc. 7469-1 at 3-4 (class counsel describing improved settlement); Doc. 7471-1 at 16-18 (same).

Counsel’s understanding is that their objector-fee filing is due by July 23, 2019. Under the terms of the Court’s Rule 23(b)(3) Class Settlement Preliminary Approval Order, objectors “shall have until one hundred eighty days after the Court’s entry of the [Order] ... to submit an objection to ... any request for Attorneys’ Fee Awards.” Doc. 7361 ¶ 18. The Order was entered on January 24, 2019, and class counsel filed their fee request on June 7, 2019—as the order likewise directs. *See id.* ¶ 22 (providing date by which “*Rule 23(b)(3) Class Counsel* will file all motions and supporting papers seeking ... the Court’s approval of any Attorneys’ Fee Awards ... with respect to their representation of merchants in MDL 1720, which culminated in the Superseding Settlement Agreement”) (emphasis added). Thus, the anticipated, limited objection to class counsel’s motion for attorneys’ fees should be due by Tuesday, July 23, 2019—180 days from the original order, and 45 days from the date of the motion to which it responds. Class counsel will then have 40 days to respond to the merchant objectors’ filing, consistent with the Preliminary Approval Order. Doc. 7361 ¶ 28.

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Counsel for the R&M objectors filed a motion for objector fees on June 7, 2019—the same day as class counsel filed their motion. Counsel for the merchant objectors agree with the R&M objectors’ position that a portion of the fees requested by class counsel should be reserved for counsel for the successful objectors, and presently intend to complete their own, more-detailed filing to that effect by July 23. However, to the extent the Court believes that counsel for the merchant objectors should file such motion by an earlier date, they are prepared to file as expeditiously as necessary.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read 'Eric Citron', is positioned above the printed name.

Eric Citron